

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Case No. 2:12-cv-00669-MMD-VCP

In re:

DESERT OASIS APARTMENTS, LLC,
Debtor.

ORDER

(Def.'s Motion to Withdraw Reference –
dkt. no. 1)

CT INVESTMENT MANAGEMENT CO.,
LLC,

Plaintiff,

v.

TOM GONZALES, et. al.,


Defendants.

This adversary proceeding, filed in the United States Bankruptcy Court for the District of Nevada on August 19, 2011, arises out of a loan ("the Loan") made to Debtor Desert Oasis Apartments by Plaintiff CT Investment Management Co., LLC, as Special Servicer to Wells Fargo Bank, N.A., as Trustee for the Registered Holders of J.P. Morgan Chase Commercial Securities Corp. The Loan was secured by an interest in land owned by the Debtor ("the Desert Oasis Property"). Defendant Tom Gonzales claimed a competing interest in the Property, which gave rise to this adversary proceeding. Gonzales removed the proceeding to the District Court via a Motion to Withdraw Reference filed on April 20, 2012. (See dkt. no. 1.)

1 In light of the related adversary proceedings before Judge Jones, see *Gonzales v.*
2 *Desert Land, LLC*, No. 3:11-cv-613-RCJ-VPC (D. Nev. filed Aug. 25, 2011) ("the
3 Gonzales Action"), the Court requested supplemental briefing from the parties on
4 whether this adversary proceeding should be dismissed due to the res judicata impact of
5 the Gonzales Action and the compulsory counterclaims rule set out in Fed. R. Civ. P.
6 13(a). (See dkt. no. 8.) In response, Plaintiff informed the Court that, after a bankruptcy
7 court adjudicating Debtor's bankruptcy petition approving a plan of reorganization for
8 Debtor, Debtor paid the undisputed amount due on the Loan. Plaintiff consequently
9 released its security interest on the Property, which renders this proceeding moot.
10 Although Gonzales did not respond to the Court's Order for supplemental briefing,
11 Debtor filed a response arguing that the case should be dismissed as moot. The Court
12 considers Gonzales' failure to respond to constitute consent to dismissal. See Local
13 Rule 7-2(d). The Court further agrees with Debtor and finds good cause for dismissal.

14 Accordingly, IT IS THEREFORE ORDERED that Defendant Tom Gonzales'
15 Motion to Withdraw Reference is DENIED as moot. The Clerk's Office shall close this
16 case.

17 DATED THIS 11th day of January 2013.

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20 MIRANDA M. DU
21 UNITED STATES DISTRICT JUDGE
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